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JUDGE SPATT'S CHAMBERS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

COUNTY OF NASSAU, NEW YORK, on behalf of itself and all others similarly situated,) Case No. 2:06-cv-05724-ADS-WDW
Plaintiff,)
vs.)
HOTELS.COM, LP; HOTELS.COM GP, LLC; HOTWIRE, INC.; TRIP NETWORK, INC. (D/B/A CHEAPTICKETS.COM); CENDANT TRAVEL DISTRIBUTION SERVICES GROUP, INC.; EXPEDIA, INC.; INTERNETWORK PUBLISHING CORP. (D/B/A LODGING.COM); LOWESTFARE.COM, INC.; MAUPINTOUR HOLDING, LLC; ORBITZ, INC.; ORBITZ, LLC; PRICELINE.COM, INC.; SITE59.COM, LLC; TRAVELOCITY.COM, INC.; TRAVELOCITY.COM, LP; TRAVELWEB, LLC; and TRAVELNOW.COM, INC., Defendants.)
)

C/F
D/F

STIPULATION AND ORDER
OF DISMISSAL

WHEREAS, Plaintiff filed a complaint in the above-captioned action (the "Action") on October 24, 2006 (the "Complaint");

WHEREAS, Defendants moved to dismiss the Complaint under Fed R. Civ. P. 12(b)(6) on February 1, 2007;

WHEREAS, by Memorandum of Decision and Order and Judgment, both dated August 17, 2007 (the "Motion to Dismiss Order"), this Court dismissed the Complaint in its entirety pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction;

WHEREAS, Plaintiff timely filed a Notice of Appeal on September 12, 2007;

WHEREAS, by Order, dated August 11, 2009, the United States Court of Appeals for the Second Circuit vacated the judgment of the District Court, dated August 17, 2007, and remanded this case to resolve a “jurisdictional concern” based on Plaintiff’s assertion of federal jurisdiction pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d)(2). *See County of Nassau, N.Y. v. Hotels.com, LP*, 577 F.3d 89, 91 (2d Cir. 2009);

WHEREAS, Defendants filed a Petition for Rehearing on August 25, 2009 (the “Petition”);

WHEREAS, the Petition was denied on September 10, 2009;

WHEREAS, on November 18, 2009, the District Court directed the parties to the Action (the “Parties”) to proceed with class certification discovery;

WHEREAS, pursuant to the Scheduling Order, dated December 17, 2009, discovery demands were exchanged on December 21, 2009 (the “Initial Discovery Demands”);

WHEREAS, the Parties have now produced and reviewed the documents produced in response to the Initial Discovery Demands;

WHEREAS, the Parties have determined that jurisdiction pursuant to 28 U.S.C. § 1332 does not exist because of a lack of complete diversity between the Parties; and

NOW, THEREFORE, the Court, in response to and in reliance upon the recitals above, hereby orders, as follows:

1. The Action is hereby dismissed, without prejudice, on the grounds that there is a lack of complete diversity between the Parties.
2. Each Party shall bear its own costs and attorneys’ fees.

Caso closed.

IT IS SO ORDERED.

Dated:

5/13/11

THE HONORABLE ARTHUR D. SPATT
UNITED STATES DISTRICT COURT JUDGE

Submitted by:

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